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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/072,496
Filing Date: February 05, 2002
Appellant(s): YAMAZAKI ET AL.

John F. Hayden (Reg. No. 37,640)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed June 15, 2009 appealing from the Office action mailed May 8, 2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

The statement of the status of claims contained in the brief is correct.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2002/0077160 A1	EDWARDS et al.	6-2002
6,466,202 B1	SUSO et al.	10-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 97-99 recite the limitation "the operation key" in line 2 of the claims.

There is insufficient antecedent basis for this limitation in the claims based on the current claim dependency.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 4-26, and 97-108 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edwards et al., US Patent Application Publication Number 2002/0077160 (hereinafter Edwards) in view of Suso et al., US Patent Number 6,466,202 (hereinafter Suso).

Regarding claim 1, Edwards discloses an electronic device comprising: a first housing; a second housing; a hinge, wherein the first and second housings are coupled together by the hinge, wherein a first center line of the first housing and a second center line of the second housing are in parallel with each other only in a state where the first

housing and the second housing are folded via the hinge, and wherein the first center line and the second center line are inclined relative to each other in a state where the first housing and the second housing are opened via the hinge [figs. 6, 7, 10; paragraphs 0021, 0022].

What Edwards does not specifically teach is that the second housing includes a transmitting unit while the first housing includes a receiving unit, wherein the receiving unit is provided at a first end of the first housing opposite a second end of the first housing at which the hinge is located. However, Suso teaches this limitation [fig. 3b; col. 7: lines 35-57].

Edwards and Suso are combinable because they are from the same field of endeavor, that is, electronic devices with two housings. At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify Edwards to include the features of Suso. The motivation for this combination would have been to specifically point out the arrangement of typical device components, such as the transmitting unit, receiving unit, and the display. Further, it has been held that rearranging of parts of an invention involves only routine skill in the art (In re Japikse, 86 USPQ 70). In addition, Edwards suggests motivation of such a modification by disclosing that the cover 24 can contain some electronics [paragraph 0020].

Regarding claim 2, Edwards discloses a first surface of the first housing and a second surface of the second housing oppose each other [fig. 6].

Regarding claim 4, Suso discloses one of the first and second housing includes a display unit while the other of the first and second housing includes an operation key [fig. 3b]].

Regarding claim 5, Edwards discloses the first and second housing are connected in a direction selected from the group consisting of a vertical direction and a lateral direction [fig. 6].

Regarding claim 6, Suso discloses a symbol displayed on the display unit is changed according to a direction of the electronic device [col. 6: line 57 – col. 7: line 5].

Regarding claim 7, the Examiner takes Official Notice that it is well known in the art for an operation key to include a translucent button with a display portion formed under the translucent button. At the time of the invention, it would have been obvious to one of ordinary skill in the art to include this feature for ease of use for the user in operating the electronic device.

Regarding claim 8, Suso discloses the display unit includes one selected from the group consisting of a liquid crystal display device and a light-emitting device [col. 4: lines 37-39].

Regarding claim 9, Suso discloses a symbol including at least one selected from the group consisting of a letter, a character, an alphabet, a numeral and a pictograph is displayed on the display unit [fig. 5c].

Regarding claim 10, Suso discloses a picture is displayed on the display unit [fig. 5b].

Regarding claim 11, Suso discloses a photoelectric conversion element is formed in the one selected from the group consisting of a liquid crystal display device and the light emitting device [col. 4: lines 37-39].

Regarding claims 12-14, Edwards suggests the electronic device is an information terminal, cellular phone, or a PDA [paragraph 0021].

Regarding claim 15, Edwards discloses an electronic device comprising: first housing; a second housing; a hinge, wherein the first and second housings are coupled together by the hinge, wherein each of the first and second housings has a pair of lines opposing each other, wherein one of the pair of lines of the first housing has a shorter length than the other one of the pair of lines of the first housing, and wherein one of the pair of lines of the second housing has a shorter length than the other one of the pair of lines of the second housing [figs. 6, 7, 10; paragraphs 0021, 0022].

What Edwards does not specifically teach is that the second housing includes a transmitting unit while the first housing includes a receiving unit, wherein the receiving unit is provided at a first end of the first housing opposite a second end of the first housing at which the hinge is located. However, Suso teaches this limitation [fig. 3b; col. 7: lines 35-57].

Edwards and Suso are combinable because they are from the same field of endeavor, that is, electronic devices with two housings. At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify Edwards to include the features of Suso. The motivation for this combination would have been to specifically point out the arrangement of typical device components, such as the

transmitting unit, receiving unit, and the display. Further, it has been held that rearranging of parts of an invention involves only routine skill in the art (In re Japikse, 86 USPQ 70). In addition, Edwards suggests motivation of such a modification by disclosing that the cover 24 can contain some electronics [paragraph 0020].

Regarding claim 16, Edwards discloses at least one of the first and second housing includes a display unit [paragraph 0021]. It is inherent in the art to include a display unit selected from the group consisting of a liquid crystal display device and a light-emitting device.

Regarding claim 17, it is inherent to include a photoelectric conversion element formed in the one selected from the group consisting of a liquid crystal display device and the light emitting device.

Regarding claims 18-20, Edwards suggests the electronic device is an information terminal, cellular phone, or a PDA [paragraph 0021].

Regarding claim 21, Edwards discloses an electronic device comprising: a first housing; a second housing; a hinge, wherein the first and second housings are coupled together by the hinge, wherein each of the first and second housings has a trapezoid shape [figs. 6, 7, 10; paragraphs 0021, 0022].

What Edwards does not specifically teach is that the second housing includes a transmitting unit while the first housing includes a receiving unit, wherein the receiving unit is provided at a first end of the first housing opposite a second end of the first housing at which the hinge is located. However, Suso teaches this limitation [fig. 3b; col. 7: lines 35-57].

Edwards and Suso are combinable because they are from the same field of endeavor, that is, electronic devices with two housings. At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify Edwards to include the features of Suso. The motivation for this combination would have been to specifically point out the arrangement of typical device components, such as the transmitting unit, receiving unit, and the display. Further, it has been held that rearranging of parts of an invention involves only routine skill in the art (In re Japikse, 86 USPQ 70). In addition, Edwards suggests motivation of such a modification by disclosing that the cover 24 can contain some electronics [paragraph 0020].

Regarding claim 22, Edwards discloses wherein at least one of the first and second housing includes a display unit [paragraph 0021]. It is inherent in the art to include a display unit selected from the group consisting of a liquid crystal display device and a light-emitting device.

Regarding claim 23, it is inherent to include a photoelectric conversion element formed in the one selected from the group consisting of a liquid crystal display device and the light emitting device.

Regarding claims 24-26, Edwards suggests the electronic device is an information terminal, cellular phone, or a PDA [paragraph 0021].

Regarding claims 97-99, the Examiner takes Official Notice that it is well known in the art for one of the first and second housings to include operation keys that each includes a unit display formed under a translucent button. It would have been obvious

to one of ordinary skill in the art at the time of the invention to include this feature to allow the user to see the buttons easily when in dark surroundings.

Regarding claims 100-102, Suso discloses the second housing includes a display unit, and the first housing includes an operation key, wherein the second housing including the display unit includes a light emitting device [fig. 3b; col. 4: lines 37-39],.

Regarding claims 103-105, Suso discloses an operation key included in the first housing [fig. 3b].

Regarding claims 106-108, Suso discloses an operation key included in the first housing between the receiving unit and the hinge [fig. 3b].

(10) Response to Argument

1. Appellant argues that one of ordinary skill in the art would not have modified Edwards in view of Suso because doing so would have frustrated the purpose of Edwards. The Examiner respectfully disagrees with this assumption. Edwards is relied upon to teach the basic structure of the electronic device in independent claims 1, 15, and 21, comprising first and second housings coupled by a hinge, wherein the first and second housings have a trapezoid shape [fig. 6, 7, 10, paragraphs 0021, 0022]. The Examiner contends that it is well known in the art to provide an electronic communication device with a "flip phone" configuration wherein a first housing includes a receiving unit (speaker) provided at a first end of the housing opposite the second end of the housing at which the hinge is located; and a second housing including a

transmitting unit (microphone). However, Suso is included in the rejection to specifically provide teaching of this well known feature [fig. 3b; col. 7: lines 35-57]. Edwards and Suso are combinable because they are from the same field of endeavor, that is, electronic devices with two housings coupled by a hinge. The motivation for this combination would have been to specifically point out the typical arrangement of device components (i.e. a flip phone configuration with the receiver in the first housing and the transmitter in the second housing).

Appellant argues that including the modification of Suso would have frustrated the purpose of Edwards, which is to maximize the distance that the antenna extends beyond the user's head. However, the cover portion (24, 64) of Edwards can be modified by incorporating the receiver unit positioned at the user's ear and at the end of the housing, while still maintaining maximum distance of the antenna beyond the user's head. With this configuration, the device would be held with the hinge lower than is pictured in figure 6. The transmitting unit would still be at the user's mouth, the receiving unit would be at the user's ear, and the antenna would extend beyond the user's head. Further, Edwards provide motivation for such modification by disclosing that the cover (first housing) can contain some electronics [paragraph 0020]. Subsequently, the rearrangement of components in Edwards can be accomplished without frustrating the purpose of the design employed by Edwards.

In summary, the Examiner maintains that the combination of Edwards and Suso is reasonable as Appellant is only claiming a physical structure with no claimed intended purpose. All that is claimed is an electronic device with first and second trapezoid

shaped housings coupled by a hinge, which is taught by Edwards, and specific locations for the receiving and transmitting units. The modification of Suso teaches the relocation of the receiving and transmitting units. The combination of Edwards and Suso teaches the structure of the electronic device as claimed.

2. Appellant argues that one of ordinary skill in the art would not have had any reason to modify Suso in view of Edwards in a way that results in the claimed subject matter. During the interview conducted October 1, 2008, the Examiner stated that the claimed subject matter could have also been rejected by Suso in view of Edwards. As such, Suso teaches an electronic device with first and second housings coupled by a hinge, wherein the receiving unit is provided at a first end of the first housing opposite a second end of the first housing at which the hinge is located and wherein the second housing includes a transmitting unit [fig. 3b; col. 7: lines 35-57]. Edwards teaches that the two housings have a trapezoid shape [fig. 6]. Thus Suso in view of Edwards would also result in the claimed structure of the electronic device. However, Appellants arguments are moot as the claims were not formally rejected by this combination.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Erika A. Gary

September 14, 2009

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